

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Valencia Water Company (U 342 W), a corporation, for an Order Authorizing It to Increase General Rates Charged for Water Service in Order to Realize Increased Annual Revenues of \$2,496,685 in Test Year 2003, \$143,286 in Test Year 2004, and \$43,439 in Attrition Year 2005, to Apply a Surcharge Calculated to Generate a Further \$614,737 in Year 2003 Revenues, to Establish a Low Income Ratepayer Assistance Program, and to Make Further Changes and Additions to Its Tariff for Water Service.

Application 02-05-013
(Filed May 3, 2002)

OPINION GRANTING INTERVENOR COMPENSATION AWARD

This decision grants the Los Angeles Chapter of the Sierra Club (Sierra Club) \$11,353.60 for its substantial contribution to Decision (D.) 03-05-030.

Background

The Sierra Club participated as a party to the general rate case filed by Valencia Water Company (Valencia). In D.03-05-030, we found that Valencia was experiencing customer growth of approximately 4% per year as well as modest increases in costs. In the first Test Year, a 1.12% increase in customers' rates was necessary to achieve just and reasonable rates. In the second Test Year and the attrition year, however, rate decreases were required due to projected customer growth.

We also found that Valencia and the Commission's Office of Ratepayer Advocates (ORA) were able to resolve the differences in their proposals and to present a Settlement Agreement. The Sierra Club opposed adoption of the Settlement Agreement and listed the following issues: (1) cost of capital and return on equity, (2) consumption, (3) additions to plant, (4) intervenor fees, (5) re-filing the service area map, and (6) recycled water rate. In so doing it, represented consumers within the meaning of Pub. Util. Code § 1802(b).

Sierra Club also filed a motion seeking a determination of the applicability of the California Environmental Quality Act (CEQA) to the proceeding. Sierra Club alleged that Valencia's rate application constituted a "project" under CEQA and thus required an environmental impact report. Sierra Club stated that the proposed rate structure was "specifically constituted to enable certain projects that may have a significant effect on the environment." Sierra Club listed five such alleged projects, which primarily related to aggravation of perchlorate contamination and increased depletion of the alluvial aquifer.

The Sierra Club raised additional issues with the settlement agreement in its written comments. Sierra Club opposed including costs associated with moving wells on the Pardee and Panhandle development sites. Sierra Club alleged that these wells are being moved for the convenience of a real estate developer, which is also Valencia's parent company. Sierra Club also opposed drilling any new wells, including these, in the Saugus aquifer prior to a CEQA review. Sierra Club asked the Commission to exclude all areas where Valencia has no facilities or customers from its service territory because local land use agencies may misinterpret the allocation of such service territory as capability to serve future customers. Sierra Club also sought to have corrected irrigation amounts included in the final decision. Sierra Club's final issue was the

“blurring” of water use between Valencia and Newhall, its corporate parent and a real estate development company.

In D.03-05-030, the Commission found that:

Sierra Club appeared as a party to this proceeding and participated in all aspects. Sierra Club attended the PHC and settlement conferences, conducted discovery on issues not pursued by ORA, and presented testimony and cross-examined Valencia’s witnesses. Sierra Club’s participation required Valencia to articulate rationales for expenses and capital costs that were not otherwise in the record. When ORA and Valencia reached a comprehensive settlement agreement, Sierra Club’s opposition to certain components forced the settling parties to defend the agreed-upon resolution on the record. The record in this proceeding has materially benefited from Sierra Club’s participation.

In its request, Sierra Club stated that it provided information to the Commission, which would not have otherwise been presented, and that its efforts were partially responsible for substantially reducing the rate increase for small commercial and residential customers.

Valencia did not file a response to the Sierra Club’s request.

Requirements for Awards of Compensation

The intervenor compensation program, enacted by the Legislature in Pub. Util. Code §§ 1801-1812, requires that the intervenor satisfy all of the following procedures and criteria to obtain a compensation award:

1. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
2. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent to claim compensation within 30 days of the prehearing conference

(or in special circumstances, at other appropriate times that we specify). (§ 1804(a).)

3. The intervenor must file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate significant financial hardship. (§ 1804(b)(1).)
5. The intervenor's presentation must have made a substantial contribution to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§ 1803(a).)
6. The claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. (§ 1806.)

For discussion here, the procedural issues in Items 1-3, and the significant financial hardship issue identified in Item 4, above are combined, followed by separate discussions on Items 5-6.

Procedural Issues

The prehearing conference in this matter was held on July 9, 2002. The Sierra Club filed its timely NOI on July 31, 2002. On August 28, 2002, Administrative Law Judge (ALJ) Bushey issued a ruling that found Sierra Club to be a customer under the Public Utilities Code, and to have made the required showing of significant financial hardship. Sierra Club filed its request for compensation on July 7, 2003, within the required 60 days of D.03-05-030. Sierra Club has satisfied all the procedural requirements necessary to make its request for compensation.

Substantial Contribution

Sierra Club has been an active and productive participant, as noted by the Commission in D.03-05-030. We therefore find that Sierra Club made a substantial contribution to D.03-05-030.

Reasonableness of the Requested Compensation

Sierra Club requested \$11, 853.60 as follows:

Professional Time	52.75 hours @ \$125	\$6,593.75
Expert Witness Time	33.5 hours @ \$125	4,187.50
Travel Time	6 hours @ \$62.50	375.00
Misc. Expenses	(copies, fax, travel)	<u>697.25</u>
	TOTAL	\$11,853.60

We will adjust this amount for time spent preparing the compensation claim. As outlined in D.98-04-059 and subsequent Commission orders, our policy is to allow for compensation award preparation time at one –half of the normal rates billed. Eight hours of professional time are claimed at the full hourly rate. Accordingly, we will reduce the request by \$500. The adjusted total award will be \$11,353.60.

The components of this request constitute reasonable fees and costs when compared to market rates for similar services from comparably qualified persons. The Sierra Club’s representative presented her qualifications for the record and the ALJ found her to be a qualified expert witness.

The claimed expense amount constitutes less than 1% of the total award, which we also consider reasonable.

Award

We award Sierra Club \$11,353.60, to be paid by Valencia. Consistent with previous Commission decisions, we will order that, after the 75th day after Sierra Club filed its compensation request, interest be paid on the award amount at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15. Interest will continue on this award until the utility makes full payment.

We remind all intervenors that Commission staff may audit their records related to this award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation.

Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

Findings of Fact

1. Sierra Club represents consumers, customers, or subscribers of Valencia, and it has met the requirement to demonstrate financial hardship.
2. Sierra Club timely filed its NOI to claim compensation and its request for compensation.
3. Sierra Club participated continuously and extensively, and materially contributed to this proceeding.

4. Sierra Club's requested hourly rates for professional and expert time are reasonable when compared to the market rates for persons with similar training and experience, and its other expenses are reasonable.

5. The total of these reasonable fees and expenses is \$11,353.60.

Conclusion of Law

Sierra Club has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed fees and expenses incurred in making substantial contributions to D.03-05-030.

O R D E R

IT IS ORDERED that:

1. The Los Angeles Chapter of the Sierra Club (Sierra Club) is awarded \$11,353.60 as compensation for its substantial contributions to Decision 03-05-030.

2. Within 30 days of the effective date of this decision, Valencia Water Company (Valencia) shall pay Sierra Club \$11,353.60.

3. Valencia shall also pay interest on the award beginning September 20, 2003, at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, and continuing until full payment is made.

4. The comment period for today's decision is waived.

This order is effective today.

Dated _____, at San Francisco, California.

Compensation Decision Summary Information

Compensation Decision:	
Contribution Decisions:	D0305030
Proceeding:	A0205013 (assigned to ALJ Bushey)
Author:	ALJ Bushey
Payer:	Valencia Water Company

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Reason
Sierra Club	7/7/2003	\$11,853.60	\$11,353.60	Claim prep expense reduced by 50%.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Lynn	Plambeck	Expert	Sierra Club	\$125	2003	\$125